

REMARKS

Responsive to the Office Action mailed April 27, 2009, Applicants provide the following. Twenty-four (24) claims remain pending in the application: Claims 1-14 and 20-29. Reconsideration of claims 1-14 and 20-29 in view of the amendments above and remarks is respectfully requested.

By way of this amendment, Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues, it is respectfully requested that the Examiner telephone the undersigned at (858) 552-1311 so that such issues may be resolved as expeditiously as possible.

Advisory Action

In the event that this amendment does not result in a Notice of Allowance, a timely Advisory Action is respectfully requested.

Claim Rejections - 35 U.S.C. §101

Claim 14 stands rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter.

The Manual of Patent Examining Procedure (MPEP) sets out a two-part test for interpreting a means plus function claim. The Examiner in response to Applicant's previous arguments states that "the 'means for storing the content and the event' in claim 14 still could be reasonably interpreted as software means" and accordingly maintained the rejection of claim 14.

"The first step in construing a means-plus-function claim limitation is to define the particular function of the claim limitation ...The next step in construing a means-plus-function claim limitation is to look to the specification and identify the corresponding structure for that function." (MPEP 2182)

Furthermore, the MPEP explains,

"Under this second step, 'structure disclosed in the specification is "corresponding" structure only if the specification or prosecution history clearly links or associates that structure to the function recited in the claim.'"

Claim 14 recites "means for storing the content and the event." It is clear from the claimed language that the particular function of the "means for storing the content and the event," is the storing of content and event. The specification discloses that the storage module 330 which stores a record or

content. The specification further describes that “the access control module 360 selectively transmits the content stored within the storage module 330 to an electronic device.” As such, it is clear that the storage module is the structure that stores the content and that it must at least comprise a tangible physical storage location in which content may be stored. As such, applicants respectfully submit that the storage module is not solely made up of software means. As such, applicants respectfully submit that claim 14 recites patentable subject matter under 35 U.S.C. 101, and therefore, request that the rejection be withdrawn.

Claim Rejections - 35 U.S.C. §102

Claims 26-27 stand rejected under 35 U.S.C. §102(b), as being anticipated by U.S. Publication No. 2003/0050982 (Chang).

Applicants previously argued that Chang does not anticipate claims 26 and 27, because Chang is specifically directed to annotating data with a time value (see Chang, Paragraph 1). Further, Figures 2 and 3 also expressly recite the steps of acquiring a time stamp 202, 302 and sending the time stamp to a calendar 204, 304 (response to Office Action mailed February 6, 2009, pg. 10).

In response to that argument, the Examiner states that “Chang teaches matching in a calendar application both a time stamp and a user. Therefore, ‘at least one attribute related to the event matches at least one attribute related to the content’” (Office Action, pg. 12).

Applicants respectfully disagree with this contention. The “identifier of the user of the recording device” which is sent to the calendar along with the time stamp information, is not an attribute relating to the event. Instead, this information is relating to the calendar. The user identifier is employed to locate the user’s calendar (see para. 0014 and 0015). From thereon, the system determines “if [] an event is on the calendar for the time stamp information” and “sends back [] to the recording device a description of an event” (para. 0015). Therefore, the only attribute of the event that is matched with the attribute of the content is the time stamp (para. 0015). As such, the Chang reference fails to disclose “at least one attribute related to the event matches at least one attribute related to the content, wherein the attribute is not a time or date,” as recited in claim 26 (emphasis added). Therefore, Applicants respectfully submit that at least Claims 26 is not anticipated by the Chang reference.

Claim 27 depends from Claim 26, and thus, Claim 27 is also patentable over the applied Chang reference due at least to its dependency on allowable Claim 26.

Claim Rejections - 35 U.S.C. §103

Claims 1-14, 20-25, 28, and 29 stand rejected under 35 U.S.C. §103(a), as being unpatentable over U.S. Publication No. 2003/0050982 (Chang) in view of U.S. Publication No. 2003/0184653 (Ohkubo). Applicants respectfully traverse this rejection and further submit that the above-cited combination fails to describe or suggest each limitation as recited in at least independent claims 1, 14, 20 and 25.

Specifically, with respect to independent claim 1, the combination of Chang and Ohkubo fails to describe or suggest “searching for an event profile corresponding to the event wherein the searching is done without using a time or date.” The Examiner submits that Chang does not describe or suggest at least “searching for an event profile corresponding to the event wherein the searching is done without using a time or date,” as recited in at least Claim 1, and relies on Ohkubo as describing this limitation. However, Ohkubo fails to describe or suggest this limitation. Ohkubo specifically describes using calendar information C0 to categorize events, wherein the calendar information comprises a date and time (see for example Ohkubo, para. [0063]).

In response to Applicants’ previous arguments, the Examiner states “the claims are written to require search without a time or search without a date, not both” (Office Action, pg. 12). Applicants disagree with this contention. Claim 1 specifically recites: “searching for an event profile corresponding to the event wherein the searching is done without using a time or date.” The Applicant respectfully submits that the language without a time or date is different than what the Examiner contends the Claim recites, i.e. without a time or without a date. Instead, the language of the claim specifically requires searching without using either time or date, not without using time or without using date as suggested by the Examiner. The Examiner bases his rejection of the claim and reliance on Ohkubo on this contention and states that “Ohkubo teaches searching for a time without using an exact time. The event period is inferred from the date the images were taken.” (Office Action, pg. 12). As such, it is clear that Ohkubo discloses using at least a date. As such, Ohkubo fails to describe or suggest “searching for an event profile corresponding to the event wherein the searching is done without using a time or date.” It follows that the combination of Chang and

Ohkubo fails to describe or suggest each limitation as recited in at least claim 1.

Furthermore, the Examiner states that “searching for an event that is without a time and without a date would be the same as finding a location and associating it with content,” and cites to U.S. Publication No. 2004/0135904 to Shiota (Paras. 0011-0012) and U.S. Publication No. 2006/0155761 to Van De Sluis et al.

With respect to Shiota, Applicants respectfully submit that Shiota does not describe or suggest at least “searching for an event profile corresponding to the event wherein the searching is done without using a time or date,” as recited in Claim 1. Shiota specifically discloses “[a]n image sorting method … include[ing] the steps of obtaining photography date/time information … selecting a single corresponding event which corresponds to he date/time of photography … and associating the corresponding event with the image data” (Shiota, para. [0007]). The cited portions simply discuss attaching a location name to the image that has already been associated with an event based on the time/date. More specifically, the cited portion of Shiota refers to additional information that may be associated with the image data. As such, the event in Shiota is not “without a time or without a date as recited by the Examiner” and instead the event is associated with the image based on a time and date (see Shiota, paras. [0007], [0011] and [0012]). Furthermore, the cited portions of Shiota refer to finding an “area name” based on location information attached to the image, and do not discuss search for the “event” based on the location information attached to the image (see Shiota, paras. [0010-002]).

Next, with regard to Van De Sluis Applicants initially point out that this reference is a new reference, not having been cited in any previous communication. According to Manual of Patent Examining Procedure (MPEP),

“second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement” (MPEP §706.07(a), emphasis added).

Therefore, Applicants respectfully submit, that the Examiner cannot base his rejections of at least claim 1 on Van De Sluis, because this reference was not previously cited in any communication from the patent office or in an IDS, and furthermore was not necessitated by Applicant’s

amendments. As such, Applicants respectfully submit that any rejections based on the Van De Sluis patent must be represented in a non-final Office Action.

Furthermore, Applicants respectfully submit that Van De Sluis fails to describe or suggest at least “searching for an event profile corresponding to the event wherein the searching is done without using a time or date,” as recited in claim 1. However, the search for specific occasions, i.e. events, is done using Van De Sluis’ date/occasion database. “Date/location database 23 stores known dates associated with specific occasions occurring on the dates” (para. 0019). This is done using “the date and time at which the photograph is taken” (para. 0019). Van De Sluis only appears to disclose using GPS information to assign a location name(s) to an image (see Van De Sluis, para. 0017 and 0018), and does not describe search for an event profile corresponding to the event using the GPS information. As such, Van De Sluis also fails to describe or suggest “searching for an event profile corresponding to the event wherein the searching is done without using a time or date,” as recited in at least claim 1 (emphasis added).

Claims 14, 20 and 25 recite similar language, and therefore, these Claims are also not obvious in view of the above-cited combination at least for the reasons discussed above.

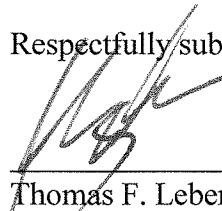
Claims 2-13, 21-24 and 29 depend from allowable Claims 1, 20 and 25 respectively. Therefore, these Claims are also not obvious in view of the Chang and Ohkubo combination at least due to their dependence on allowable Claims.

CONCLUSION

Applicants submit that the above amendments and remarks place the pending claims in a condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Respectfully submitted,

Dated: 6/25/2009


Thomas F. Lebans
Registration No.: 38,221
Attorney for Applicants
(858) 552-1311

Address All Correspondence To

FITCH, EVEN, TABIN & FLANNERY
120 So. LaSalle Street, Ste. 1600
Chicago, IL 60603

Direct Telephone Inquiries To

Thomas F. Lebans
(805) 541-2800
San Luis Obispo, California Office of
FITCH, EVEN, TABIN & FLANNERY